

REMARKS

In the non-final Office Action, the Examiner rejects claims 1-8 and 10 under 35 U.S.C. § 103(a) as being unpatentable over DUFOSSE (U.S. Publication No. 2002/0136398). The rejection is traversed.

By way of the Amendment, Applicant amends claims 1, 5-8, and 10, to improve form; cancels claims 2-4, 9, and 10, without prejudice or disclaimer; and adds new claims 11-15. No new matter has been introduced. Claims 1, 5-8, and 11-15 are pending.

Rejection under 35 U.S.C. § 103

Pending claims 1 and 5-8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over DUFOSSE. The rejection is respectfully traversed.

Amended independent claim 1 is directed to an electro-acoustic communications unit for producing frequency characteristics in an alert mode and a phone mode. The electro-acoustic communications unit comprises a housing including a multi-sided wall defining an exterior of the housing from a substantially air-tight interior having a volume (V); an acoustic driver for generating acoustic signals, said acoustic driver being mounted to and penetrating a first side of the multi-sided wall, where a first end of the acoustic driver is within the interior of the housing and generates first acoustic signals directed to an acoustic port, and a second end of the acoustic driver is in the exterior of the housing and generates second acoustic signals to be dissipated and unused by the electro-acoustic communications unit; and the acoustic port having a length (L) and a cross-sectional area (A), said acoustic port penetrating a second side of the multi-sided wall and connecting the interior of the housing with the exterior of said housing, where the volume (V), the length (L), and the cross-sectional area (A) are dimensioned in relation to the

acoustic driver such that said electro-acoustic communications unit achieves the frequency characteristics in the phone mode when engaging an exterior end of said acoustic port of the electro-acoustic communications unit with an ear of a user, where said frequency characteristics are provided in both the alert mode and the phone mode. This combination of features is not disclosed or suggested by DUFOSSE.

For example, DUFOSSE does not disclose or suggest an electro-acoustic communications unit in which a first end of the acoustic driver is within the interior of the housing and generates first acoustic signals directed to an acoustic port, and a second end of the acoustic driver is in the exterior of the housing and generates second acoustic signals to be dissipated and unused by the electro-acoustic communications unit, as recited in amended independent claim 1. Former claim 4 recited a similar feature. In rejecting former claim 4, the Examiner alleges that DUFOSSE discloses “the acoustic signals generated by the second side of the driver, are directed to dissipate without being used by the user,” citing Fig. 1 and paragraph 34 of DUFOSSE for support (Office Action – page 4). Applicant respectfully submits that neither these sections, nor any other sections of DUFOSSE, disclose or suggest the above particularly-recited feature of amended claim 1.

Paragraph 34 of DUFOSSE discloses:

The cavity 3 and the second aperture 8 form an acoustic resonator. The second aperture 8 and the tube 9 form an acoustic mass. Thus the soundwave from the rear of the earpiece is delayed. A resonance is therefore obtained by constructive interference of soundwaves from the front of the earpiece and soundwaves from the rear of the earpiece. The frequency response curve of the earpiece in speakerphone or handsfree mode therefore shows amplification of low frequencies. A base reflex or anti-resonant earpiece is thus obtained in handsfree mode. The response curve in discreet earpiece mode is generally flat and relatively insensitive to leaks, making the earpiece leak-tolerant in discreet mode, meaning that the response curves vary little in the presence of leaks. The earpiece

therefore has improved sound quality both in discreet mode, because of its tolerance of leaks, and in speakerphone or handsfree mode. This kind of earpiece is therefore a true multifunction earpiece.

This section, in connection with Fig. 1 of DUFOSSE, discloses that a multifunction earpiece includes an acoustic resonator formed by a cavity 3 and a second aperture 8, and an acoustic mass formed by second aperture 8 and a tube 9, in which the soundwave from the rear of the earpiece is delayed, such that a resonance is obtained by constructive interference of soundwaves from the front of the earpiece and soundwaves from the rear of the earpiece. Nowhere in this section, or elsewhere, does DUFOSSE disclose or suggest that a second end of transducer 4 (which the Examiner, at pp. 2-3 of the Office Action, alleges corresponds to the claimed acoustic driver) is in the exterior of the housing and generates second acoustic signals to be dissipated and unused by the multifunction earpiece, as would be required by claim 1 under the Examiner's interpretation. To the contrary, DUFOSSE's transducer 4 generates sound from one of its sides for transmitting through tube 9 and out aperture 8, and from another one of its sides, transducer 4 generates sound for transmitting through aperture 7 (Fig. 1; paragraphs 32-33 ("transducer 4 is placed near the first aperture 7 to obtain an optimum amplitude of the emitted sound signal")). DUFOSSE discloses locating aperture 7 within a predetermined distance of aperture 8 on the handset casing to enable a user to place an ear simultaneously over both apertures 7 and 8, such that sound from both ends of transducer 4 is heard by the user (paragraph 38). Thus, DUFOSSE does not disclose or suggest that a second end of transducer 4 is in the exterior of the housing and generates second acoustic signals to be dissipated and unused by the multifunction earpiece, as would be required by claim 1 under the Examiner's interpretation.

For at least these reasons, claim 1 is patentable over DUFOSSE.

Claims 5-8 depend from claim 1 and are, therefore, patentable over DUFOSSE for at least the reasons given for claim 1.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1 and 5-8 under 35 U.S.C. § 103(a) based on DUFOSSE.

New Claims

New claims 11-14 depend from claim 1 and are, therefore, believed to be patentable over the cited art for at least the reasons given above for claim 1.

New independent claim 15 recites features similar to (yet possibly of different scope than) the above particularly-recited features of claim 1. Thus, claim 15 is believed to be patentable over the cited art for at least reasons similar to the reasons given above for claim 1.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully requests the Examiner's reconsideration of the application and the timely allowance of the pending claims.

As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such assertions (e.g., whether a reference constitutes prior art, assertions as to dependent claims, reasons to modify a reference, etc.) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such assertions/requirements in the future.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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